

PUBLIC NOTICE

FEDERAL COMMUNICATIONS COMMISSION
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DA 17-546
Released: June 5, 2017

CELLCO PARTNERSHIP D/B/A VERIZON WIRELESS AND XO HOLDINGS SEEK FCC CONSENT TO THE TRANSFER OF CONTROL OF LOCAL MULTIPOINT DISTRIBUTION SERVICE AND 39 GHZ LICENSES HELD BY XO HOLDINGS SUBSIDIARY NEXTLINK WIRELESS LLC

ULS File No. 0007765708

PLEADING CYCLE ESTABLISHED

Petitions to Deny Due: June 26, 2017
Oppositions Due: July 3, 2017
Replies Due: July 11, 2017

I. INTRODUCTION

Cellco Partnership d/b/a Verizon Wireless (Verizon Wireless) and XO Holdings (together with Verizon Wireless, the Applicants) have filed an application pursuant to Section 310(d) of the Communications Act of 1934, as amended,¹ seeking Commission consent to the transfer of control of Local Multipoint Distribution Service (LMDS), 39 GHz, 3650-3700 MHz, and common carrier fixed point to point microwave licenses held by XO Holdings subsidiary Nextlink Wireless, LLC (Nextlink). Verizon Wireless currently leases from Nextlink spectrum under its LMDS and 39 GHz licenses,² and the Applicants state that Verizon Wireless has exercised its option, under a separate agreement entered into at the same time as the leasing arrangement, to purchase from XO Holdings all of its interests in Nextlink.³

The Applicants claim that Verizon Wireless has been driving the 5G ecosystem towards rapid commercialization with testing, standards development, fiber deployment and acquisitions for backhaul, and the planned launch of 11 pre-commercial 5G fixed wireless trials in 2017. The Applicants argue that acquiring control of the Nextlink licenses currently subject to the leasing arrangement will provide Verizon Wireless greater certainty regarding its spectrum resources to help it develop and deliver 5G products and services to the public.

¹ 47 U.S.C. § 310(d).

² *Applications of Cellco Partnership d/b/a Verizon Wireless and Nextlink Wireless, LLC for Consent to Long-Term De Facto Transfer Spectrum Leasing Arrangement*, Memorandum Opinion and Order, 31 FCC Red 7767 (WTB 2016) (granting consent to leasing arrangement).

³ *Application of Cellco Partnership and XO Holdings for Transfer of Control of Licenses*, ULS File No. 0007765708, Ex. 1 – Description of Transaction and Public Interest Statement at 2 (filed May 11, 2017) (Public Interest Statement). The Applicants state that the leasing arrangement will terminate when the proposed transfer of control has been completed.

The Applicants also assert that the proposed transfer of control does not raise any competitive concerns. The Applicants note that Verizon Wireless currently holds no licenses in millimeter wave bands other than a non-exclusive 70/80/90 GHz license and does not lease any millimeter wave spectrum other than through the existing leasing arrangement with Nextlink.⁴ The Applicants further assert that with the proposed transfer of control, Verizon Wireless would not exceed the 1250 megahertz threshold adopted in the *Spectrum Frontiers Report and Order* for secondary market millimeter wave spectrum transactions that may warrant further competitive analysis.⁵ The Applicants argue that in the proposed transfer of control, Verizon Wireless would merely be converting its existing lease interest in Nextlink's LMDS and 39 GHz spectrum into an ownership interest in its licenses for the same amount of that millimeter wave spectrum.

II. SECTION 310(d) APPLICATIONS

The application for the transfer of control of licenses has the following file number:

<u>File No.</u>	<u>Transferor</u>	<u>Transferee</u>	<u>Lead Call Sign</u>
0007765708	XO Holdings	Cellco Partnership	WQIB325

III. EX PARTE STATUS OF THIS PROCEEDING

Pursuant to Section 1.1200(a) of the Commission's rules,⁶ the Commission may adopt modified or more stringent *ex parte* procedures in particular proceedings if the public interest so requires. We announce that this proceeding will be governed by permit-but-disclose *ex parte* procedures that are applicable to non-restricted proceedings under Section 1.1206 of the Commission's rules.⁷

Parties making oral *ex parte* presentations are directed to the Commission's *ex parte* rules. Parties are reminded that memoranda summarizing the presentation must contain the presentation's substance and not merely list the subjects discussed.⁸ More than a one- or two-sentence description of the views and arguments presented is generally required.⁹ Other rules pertaining to oral and written presentations are set forth in Section 1.1206(b) as well.¹⁰

IV. GENERAL INFORMATION

The transfer of control application has been found, upon initial review, to be acceptable for filing. The Commission reserves the right to return any application if, upon further examination, it is determined to be defective and not in conformance with the Commission's rules or policies.

⁴ The Applicants represent that Verizon Wireless, after the proposed transfer of control is completed, would honor the terms and conditions of Nextlink's existing leases and agreements with third parties making use of the spectrum associated with the transferred licenses. *Id.* at 6.

⁵ *Use of Spectrum Bands Above 24 GHz for Mobile Radio Services*, Report and Order and Further Notice of Proposed Rulemaking, 31 FCC Rcd 8014, 8081 n.486 (*Spectrum Frontiers Report and Order*). The Applicants note that, pursuant to that order, Nextlink's 28 GHz LMDS and 39 GHz licenses will be converted to the Upper Microwave Flexible Use Service. Public Interest Statement at 2 n.6.

⁶ 47 C.F.R. § 1.1200(a).

⁷ 47 C.F.R. § 1.1206.

⁸ 47 C.F.R. § 1.1206(b)(1).

⁹ *Id.*

¹⁰ 47 C.F.R. § 1.1206(b).

Interested parties must file petitions to deny no later than **June 26, 2017**. Persons and entities that file petitions to deny become parties to the proceeding. They may participate fully in the proceeding, including seeking access to any confidential information that may be filed under a protective order, seeking reconsideration of decisions, and filing appeals of a final decision to the courts. Oppositions to such pleadings must be filed no later than **July 3, 2017**. Replies to such pleadings must be filed no later than **July 11, 2017**. All filings concerning matters referenced in this Public Notice should refer to ULS File No. 0007765708.

To allow the Commission to consider fully all substantive issues regarding the application in as timely and efficient a manner as possible, petitioners and commenters should raise all issues in their initial filings. New issues may not be raised in responses or replies.¹¹ A party or interested person seeking to raise a new issue after the pleading cycle has closed must show good cause why it was not possible for it to have raised the issue previously. Submissions after the pleading cycle has closed that seek to raise new issues based on new facts or newly discovered facts should be filed within 15 days after such facts are discovered. Absent such a showing of good cause, any issues not timely raised may be disregarded by the Commission.

Under the Commission's current procedures for the submission of filings and other documents,¹² submissions in this matter may be filed electronically (*i.e.*, through the Commission's Universal Licensing System (ULS)) or by hand delivery to the Commission.

- **To file electronically**, visit the ULS web site at <http://wireless.fcc.gov/uls/> and click on the "Submit a Pleading" link, complete the administrative information, and upload your pleading.
- **To file by paper**, the original and one copy of each filing must be filed by hand or messenger delivery, by commercial overnight courier, or by first-class or overnight U.S. Postal Service mail. All hand-delivered or messenger-delivered paper filings for the Commission's Secretary must be delivered to FCC Headquarters at 445 12th St., S.W., Room TW-A325, Washington, D.C. 20554. The filing hours at this location are 8:00 a.m. to 7:00 p.m. All hand deliveries must be held together with rubber bands or fasteners. Any envelopes must be disposed of before entering the building. Commercial overnight mail (other than U.S. Postal Service Express Mail and Priority Mail) must be sent to 9300 East Hampton Drive, Capitol Heights, MD 20743. U.S. Postal Service first-class, Express, and Priority mail should be addressed to 445 12th Street, S.W., Washington, D.C. 20554. All filings must be addressed to the Commission's Secretary, Office of the Secretary, Federal Communications Commission.

One copy of each pleading must be delivered electronically, by email or facsimile, or if delivered as paper copy, by hand or messenger delivery, by commercial overnight courier, or by first-class or overnight U.S. Postal Service mail (according to the procedures set forth above for paper filings), to: (1) Linda Ray, Broadband Division, Wireless Telecommunications Bureau, at linda.ray@fcc.gov or (202) 418-2463 (facsimile); (2) Kate Mataves, Competition and Infrastructure Policy Division, Wireless Telecommunications Bureau, at catherine.mataves@fcc.gov or (202) 418-2643 (facsimile); and (3) Jim Bird, Office of General Counsel, at TransactionTeam@fcc.gov or (202) 418-1234 (facsimile).

The application and any associated documents are available for public inspection and copying during normal reference room hours at the following Commission office: FCC Reference Information Center, 445 12th Street, S.W., Room CY-A257, Washington, D.C. 20554. The application also is available electronically through ULS, which may be accessed on the Commission's Internet website. To

¹¹ See 47 C.F.R. § 1.45(c).

¹² See *FCC Announces Change in Filing Location for Paper Documents*, Public Notice, 24 FCC Rcd 14312 (2009).

request materials in accessible formats for people with disabilities (Braille, large print, electronic files, audio format), send an email to fcc504@fcc.gov or call the Consumer and Governmental Affairs Bureau at (202) 418-0530 (voice) or (202) 418-0432 (TTY). Contact the FCC to request reasonable accommodations for filing comments (accessible format documents, sign language interpreters, CART, etc.) by email: FCC504@fcc.gov; phone: (202) 418-0530; or TTY: (202) 418-0432.

For further information, contact Linda Ray, Broadband Division, Wireless Telecommunications Bureau, at (202) 418-0257, or Kate Matraves, Competition and Infrastructure Policy Division, Wireless Telecommunications Bureau, at (202) 391-6272.

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